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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,237	01/26/2001	Ronald J. Kane	TER2000-1	6796

7590                    04/03/2003

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[REDACTED] EXAMINER

GREGORY, BERNARR E

ART UNIT	PAPER NUMBER
3662	

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/770,237	KANE ET AL.
	<b>Examiner</b>	Art Unit Bernarr E. Gregory 3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
  - 2a) This action is **FINAL**.      2b) This action is non-final.
  - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1-31 is/are pending in the application.
    - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
  - 5) Claim(s) \_\_\_\_\_ is/are allowed.
  - 6) Claim(s) 1-31 is/are rejected.
  - 7) Claim(s) \_\_\_\_\_ is/are objected to.
  - 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____                                     |

Art Unit: 3662

1. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each of independent claims 1, 13, 19, and 21, the uses of “energy source” and “signal” together are indefinite and unclear as to whether the “energy source” is a source of radiated energy or is a power supply. Further, due to the use of “energy source” with “signal,” it is unclear in context if it is intended that the transmitted signal go beyond simply an RF transmission. Similarly, the use of the words “energy sources” is indefinite and unclear in context. If it does go beyond an RF transmission, it is unclear why “antennas” are mentioned in each of claims 1, 13, 19, and 21.

On line 10 of independent claim 21, it is unclear in context what is meant by “sapace.”

Line 9-45 of claim 21 are indefinite and unclear in context in that they recite functions without reciting any means or other structure to perform the recited functions.

At the end of line 9 of independent claim 22, it is unclear in context what is meant by the word “at” being written with underlining (i.e., “at”).

Line 9-16 of claim 22 are indefinite and unclear in context in that they recite functions without reciting any means or other structure to perform the recited functions.

Independent claim 30 and dependent claim 31 are indefinite and unclear as to what is claimed in that the claims recite neither apparatus, nor method, nor computer program product. They merely recite a signal per se.

On line 12 of claim 3, the number "82" is indefinite and unclear in context in that it does not make logical or grammatical sense in that position.

Dependent claims 2-12, 14-18, 20, 23-29, and 31 are unclear in that they depend from unclear independent claims.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 13, 14, 15, 16, 18, 22-24, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammack ('263) or Hammack ('096) or Hammack ('911) or Hammack ('590) or Yokey et al ('330) or Otto ('584) or Sypniewski ('076) or Parl et al ('598) or Sullivan ('131).

Using independent claim 1 as exemplary, each of the applied references clearly shows a method of using a plurality of antennas to track an object that is transmitting an RF signal where the method takes phase measurements as claimed in claim 1 to find the positions and the changes in positions of the tracked object. The further limitations of dependent claim 2 are fully met by the applied references.

The remarks with respect to claims 13-16 and 18 are substantially those made above with respect to claims 1 and 2.

The remarks with respect to claims 22-24 and 16-29 are substantially those made above with respect to claims 1 and 2. Please note that claims 26-29 merely state an intended use without reciting any structure.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammack ('263) or Hammack ('096) or Hammack ('911) or Hammack ('590) or Yokey et al ('330) or Otto ('584) or Sypniewski ('076) or Parl et al ('598) or Sullivan ('131).

None of the applied art recites the 2.5 GHz frequency recited in claims 17 and 25, but it would have been obvious to one of ordinary skill-in-the-art with in the general disclosures of the applied references that any desired RF frequency could be used, including 2.5 GHz.

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

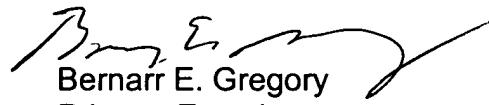
Claims 30 and 31 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 30 and 31 recite a signal per se. A signal does not fall within any of the statutory categories of invention set forth in 35 USC 101. Claims 30 and 31 recite neither a method nor an apparatus nor a computer program product. It is noted that computer program product may only be claimed as residing on a computer-readable medium.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr E. Gregory whose telephone number is (703) 306-5765. The examiner can normally be reached on weekdays from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarca, can be reached on (703) 306-4171. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Bernarr E. Gregory  
Primary Examiner  
Art Unit 3662